

82-39

READING FILE

Service Date: October 18, 1982

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Application of)	
PACIFIC POWER AND LIGHT COMPANY)	UTILITY DIVISION
for Authority to Adopt New Rates and)	
Charges for Electric Service Furnished)	DOCKET NO. 82.7.53
in the State of Montana -- ABANDONED)	
NUCLEAR PROJECTS.)	

PROCEDURAL ORDER

Following issuance of a Notice of Filing and the holding of a prehearing conference and pursuant to ARM Section 38.2.2702, the Commission enters this order setting forth the procedure to be followed in Docket No. 82.7.53:

1. In this order the term "parties" includes the Applicant, Pacific Power and Light Co. (PP&L), all intervenors, and the Montana Consumer Counsel. Individuals or entities listed on the "service list" for this docket are not "parties" to this docket unless they have been granted intervention by the Commission.

2. Copies of all pleadings, motions, discovery requests, prefiled testimony and briefs filed with the Commission shall be served on all parties to this docket. A copy of a cover letter or transmittal letter describing the filing shall also be served on the remainder of the "service list" who are not parties to this docket. In submitting prefiled testimony, the original and ten copies must be filed with the Commission. Failure to provide the requisite number of copies will constitute a defective filing and may result in the testimony not being allowed into the record.

3. All dates listed in the following schedule are mailing dates. Parties must mail all material by the most expeditious method available at reasonable cost.

Schedule

4. Unless otherwise herein specified, the following schedule shall apply in Docket No. 82.7.53:

- (a) October 20, 1982: Final day as a matter of right for written discovery and data requests directed to PP&L; final day for timely filing of Petitions to Intervene by parties who are interested in and directly affected by this Docket.
- (b) November 5, 1982: Final day for completion by PP&L of all answers and responses to written discovery and data requests directed to PP&L by other parties.
- (c) November 22, 1982: Final day for completion and service upon PP&L and other parties of the prepared testimony and exhibits of all parties except PP&L.
- (d) December 3, 1982: Final day as a matter of right for written discovery and data requests directed to all parties by PP&L and intervenor data requests directed to parties other than PP&L.
- (e) December 12, 1982: Final day for completion of answers by all parties to discovery and data requests made pursuant to paragraph 4(d).
- (f) January 4, 1982: Final day for service of rebuttal testimony by PP&L and testimony of other parties which is in rebuttal to testi-

mony filed pursuant to paragraph 4(c). It is understood that such rebuttal testimony shall be submitted through express mail.

(g) January 18, 1983: Opening day of hearing in Docket No. 82.7.53.

Intervention

5. Parties seeking to intervene after October 20, 1982, must file a Petition to Intervene with the Commission. The petition shall demonstrate (A) the position that the intervenor will take if the intervention is granted, (B) that the proposed intervenor has an interest in and is directly affected by this Docket, (C) that the intervention, if granted, will not delay or prejudice the proceeding in the Docket, and (D) good cause why the petition was not timely filed. (ARM Section 38.2.2401 et seq.).

Discovery

6. The term "discovery" as used in this order includes all forms of discovery authorized by the Montana Rules of Civil Procedure, as well as informal "data requests." The Commission urges all parties to conduct their discovery through the use of data requests as much as possible.

7. The parties are requested to submit their written discovery and data requests as soon as they are developed rather than necessarily waiting until the due date established in the schedule in paragraph 4. This should serve to spread out the burden on the responding party and avoid bottlenecks on the due dates. Responses to discovery and data requests should also be submitted as they are generated.

8. Written discovery and data requests will be served on all parties. Hopefully this will serve to reduce the number of duplicate requests. Unless

otherwise agreed between individual parties, copies of answers to all written discovery and data requests will be served only on parties specifically requesting them and on the Commission. In this connection the term "parties" includes the parties, their attorneys, and witnesses testifying on matters to which the answers relate, who are not located in the same town as the party. If any party wants material requested by any other party, it should so inform the party to whom the data request or written discovery was directed.

9. The period prior to October 20, 1982 is the time for submission of written discovery and data requests to PP&L. Likewise, the period prior to December 3, 1982 is the time for submission of written discovery and data requests to intervening parties. The party receiving the written discovery or data request has five (5) days from receipt of the same within which to voice any objections it has to the request. The objection and notice thereof shall be served upon the Commission and all parties of record. The Commission may dispose of such objections by prompt ruling, or may schedule arguments on the objections. Failure to object promptly will be deemed acceptance of the request.

10. In the event any requesting party is dissatisfied with the response to any written discovery or data request, such party must, within five (5) days after receipt of such response, serve in writing upon the Commission, and simultaneously upon all parties of record, its objections to such response. The Commission may dispose of such objections by prompt ruling, or may schedule argument on the objections. The Commission will issue its order either sustaining or overruling the objections. If objections are

sustained, a time period will be set within which a satisfactory response must be made.

11. Submission of written discovery or data requests after the period established for the same will be allowed by leave of the Commission only. Such requests will not be permitted unless the party making the request shows good cause as to why the request was not submitted within the time period allowed.

12. Unless excused by the Commission, failure by a party to answer data requests or other discovery from any party may result in:

- (a) An order refusing to allow the disobedient party to support or oppose related claims, or prohibiting him from introducing related matters in evidence;
- (b) An order striking pleadings, testimony or parts thereof, or staying further proceedings until the requests is satisfied, or dismissing the action or proceeding or any part thereof.

Testimony and Evidence

13. The Commission contemplates a progressive narrowing of issues as prefiled testimony proceeds from direct to rebuttal. Introduction of new issues or data in new areas will be carefully scrutinized and disallowed unless reasonably related to issues earlier identified in the application, in Commission orders or in testimony prefiled in conformance with this order.

14. At the hearing, prefiled direct, answer and rebuttal testimony will be adopted into the record without the need of recitation by the witness. This procedure will eliminate retyping of prepared testimony into the hearing transcript.

15. All proposed exhibits and prefiled written testimony shall be marked for the purposes of identification prior to the start of the hearing. Parties shall arrange in advance with the court reporter the manner of identifying their exhibits.

16. When cross-examination is based on a document, not previously filed with the Commission, copies of the document will be made available to the Commission unless good cause is shown why copies are not available. Parties introducing data requests or other discovery must have copies of each request and response available at the hearing for the court reporter, each Commissioner, the Commission staff and all parties.

17. Parties may be permitted to present "live" rebuttal testimony only if it is in direct response to an issue raised for the first time in cross-examination or the testimony of a public witness. Such testimony will be allowed only by leave of the presiding officer.

18. Citizens and citizen groups will, in the discretion of the Commission, be allowed to make statements without having submitted prepared written testimony; in addition, if they have prepared written testimony they may read it if they desire, or they may have it adopted directly into the record.

19. The Commission may schedule an evening session of the hearing and/or satellite hearings in order to facilitate public testimony. However, members of the public may also be allowed to testify during the main hearing. Attempts will be made to keep these appearances from significantly disrupting the technical phase of the hearing.

20. The rules of evidence applicable in the District Courts of the State of Montana at the time of the hearings in this Docket will be used at the hearings.

Prehearing Motions and Conferences


21. Motions by any party, including motions to strike prefiled testimony and motions concerning any procedural matter connected with this docket shall be raised at the earliest possible time. Prehearing motions shall be submitted on briefs unless otherwise requested by a party. If oral argument is requested, and the request is granted, the party requesting oral argument shall notice the same for hearing before the Commission.

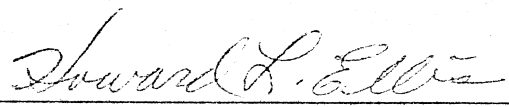
22. The Commission may, at any time prior to the hearing, set a final Prehearing Conference. At that prehearing conference there may be discussed, among other things, the feasibility of settlement of any issues in the proceeding, simplification of issues, possibility of obtaining admissions of fact and documents, the distribution and marking of written testimony and exhibits prior to the hearing, and such other matters as may aid in the disposition of the proceeding or settlement thereof.

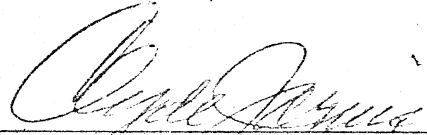
23. Nothing in this order shall be construed to limit the legally established right of the Commission or its staff to inspect the books and accounts of PP&L at any time.

DONE AND DATED THIS 18th day of October, 1982 by a vote of 4-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.


GORDON E. BOLLINGER, Chairman


HOWARD L. ELLIS, Commissioner


CLYDE JARVIS, Commissioner


THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Madeline L. Cottrill
Secretary

(SEAL)